

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG

ALL AMERICAN CHECK CASHING, INC.;
MID-STATE FINANCE, INC.; and
MICHAEL E. GRAY, individually

DEFENDANTS

PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT

Plaintiff Consumer Financial Protection Bureau (“Bureau” or “Plaintiff”) hereby moves the Court, pursuant to Federal Rule of Civil Procedure 56, for an Order granting summary judgment for the Bureau on all counts. Summary judgment is proper where “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(a). In support of this Motion, the Bureau states that the record in this matter – including the pleadings, declarations, admissions, interrogatory responses, testimony, and documents – demonstrates that there is no genuine dispute as to any material fact, and the Bureau is entitled to judgment on all counts as a matter of law, specifically:

1. Defendants materially interfered with the ability of consumers to understand a term or condition of Defendants’ check cashing services (Count I);
2. Defendants took unreasonable advantage of the inability of consumers to protect their interests in selecting or using Defendants’ check cashing services (Count II);
3. Defendants deceptively represented to consumers that information about the fee for cashing a check was not available, and that it was difficult or time-consuming to cancel or reverse a check cashing transaction and steps taken by Defendants during processing prevented consumers from cashing their checks elsewhere (Count III);

4. Defendants' check cashing acts and practices caused or were likely to cause substantial injury to consumers that consumers could not reasonably avoid and that was not outweighed by countervailing benefits to consumers or to competition (Count IV);

5. Defendants deceptively represented to consumers that borrowing pursuant to "1st and 3rd lending" was more financially beneficial than or equivalent to obtaining a 30-day loan from a competitor (Count V); and

6. Defendants' policy and practice of failing to notify or refund consumers who made overpayments caused or was likely to cause substantial injury to consumers that consumers could not reasonably avoid and that was not outweighed by countervailing benefits to consumers or to competition (Count VI).

Based on the record in this matter, including the exhibits attached hereto, and the undisputed facts and argument in the Bureau's Memorandum Brief filed in support of this motion, the Bureau respectfully requests that the Court enter judgment in the Bureau's favor on all counts.

Dated: August 4, 2017

Respectfully submitted,
CONSUMER FINANCIAL PROTECTION BUREAU
ANTHONY ALEXIS
Enforcement Director

R. GABRIEL D. O'MALLEY
Acting Deputy Enforcement Director for Litigation

RICHA DASGUPTA
Acting Assistant Litigation Deputy

s/Emily Mintz
EMILY MINTZ (VA Bar No. 82437)
Phone: (202) 435-9424
Email: emily.mintz@cfpb.gov
MICHAEL FAVRETTO (NY Bar No. 4508727)
Phone: (202) 435-7785
Email: michael.favretto@cfpb.gov

STEPHANIE BRENOWITZ (NY Bar No. 4317418)

Phone: (202) 435-9005

Email: stephanie.brenowitz@cfpb.gov

DANIEL ABRAHAM (CA Bar No. 299193)

Phone: (202) 435-7039

E-mail: daniel.abraham@cfpb.gov

Enforcement Attorneys

Consumer Financial Protection Bureau

1700 G Street NW, Washington, DC 20552

Facsimile: (202) 435-7722

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2017, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

s/Emily Mintz

EMILY MINTZ (VA Bar No. 82437)

Phone: (202) 435-9424

Email: emily.mintz@cfpb.gov

Enforcement Attorney

Consumer Financial Protection Bureau

1700 G Street NW

Washington, DC 20552

Facsimile: (202) 435-7722